

# SENATE . . . . . No. 1708

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Robert L. Hedlund**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act relative to enhancing Melanie's Law.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Robert L. Hedlund	Plymouth and Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Michael R. Knapik	Second Hampden and Hampshire
Bruce E. Tarr	First Essex and Middlesex
Richard R. Tisei	Middlesex and Essex
James E. Vallee	10th Norfolk
James Cantwell	4th Plymouth
Bradley H. Jones, Jr.	20th Middlesex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO ENHANCING MELANIE'S LAW.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Section 24 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end of the first paragraph the following sentence:---

Any sentence imposed for the above offense shall not run concurrent with a sentence for any prior or subsequent conviction or assignment to an alcohol or controlled substance education program for any like offense in this Commonwealth or any other jurisdiction.

**SECTION 2.** Section 24 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by deleting the fourth, fifth, sixth and seventh paragraphs and inserting the following paragraphs in their place:---

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation preceding the date of conviction or assignment in the instant case, the defendant shall be punished by a fine of

14 not less than six hundred nor more than ten thousand dollars and by imprisonment for not  
15 less than sixty days nor more than two and one-half years; provided, however, that the  
16 sentence imposed upon such person shall not be reduced to less than thirty days, nor  
17 suspended, nor shall any sentence run concurrent with a sentence for any prior or  
18 subsequent conviction for any like offense in this Commonwealth or any other  
19 jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or  
20 receive any deduction from his sentence for good conduct until such person has served  
21 thirty days of such sentence; provided, further, that the commissioner of correction may,  
22 on the recommendation of the warden, superintendent, or other person in charge of a  
23 correctional institution, or the administrator of a county correctional institution, grant to  
24 an offender committed under this subdivision a temporary release in the custody of an  
25 officer of such institution for the following purposes only: to attend the funeral of a  
26 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric  
27 services unavailable at said institution; to engage in employment pursuant to a work  
28 release program; or for the purposes of an aftercare program designed to support the  
29 recovery of an offender who has completed an alcohol or controlled substance education,  
30 treatment or rehabilitation program operated by the department of correction; and  
31 provided, further, that the defendant may serve all or part of such thirty day sentence to  
32 the extent such resources are available in a correctional facility specifically designated by  
33 the department of correction for the incarceration and rehabilitation of drinking drivers.

34 If the defendant has been previously convicted or assigned to an alcohol or controlled  
35 substance education, treatment, or rehabilitation program by a court of the  
36 commonwealth, or any other jurisdiction because of a like offense two times preceding

the date of conviction or assignment in the instant case, the defendant shall be punished by a fine of not less than one thousand nor more than fifteen thousand dollars and by imprisonment for not less than one hundred and eighty days nor more than two and one-half years or by a fine of not less than one thousand nor more than fifteen thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than one hundred and fifty days, nor shall any sentence run concurrent with a sentence for any prior or subsequent conviction for any like offense in this Commonwealth or any other jurisdiction, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one hundred and fifty days of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative, to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such one hundred and fifty days sentence to the extent such resources are available in a correctional facility specifically designated by the department of correction

60 for the incarceration and rehabilitation of drinking drivers.

61 If the defendant has been previously convicted or assigned to an alcohol or controlled  
62 substance education, treatment, or rehabilitation program by a court of the  
63 commonwealth or any other jurisdiction because of a like offense three times preceding  
64 the date of conviction or assignment in the instant case, the defendant shall be punished  
65 by a fine of not less than one thousand five hundred nor more than twenty-five thousand  
66 dollars and by imprisonment for not less than two years nor more than two and one-half  
67 years, or by a fine of not less than one thousand five hundred nor more than twenty-five  
68 thousand dollars and by imprisonment in the state prison for not less than two and one-  
69 half years nor more than five years; provided, however, that the sentence imposed upon  
70 such person shall not be reduced to less than twelve months, nor suspended, nor shall any  
71 sentence run concurrent with a sentence for any prior or subsequent conviction for any  
72 like offense in this Commonwealth or any other jurisdiction, nor shall any such person be  
73 eligible for probation, parole, or furlough or receive any deduction from his sentence for  
74 good conduct until such person has served twelve months of such sentence; provided,  
75 further, that the commission of correction may, on the recommendation of the warden,  
76 superintendent, or other person in charge of a correctional institution, or the administrator  
77 of a county correctional institution, grant to an offender committed under this subdivision  
78 a temporary release in the custody of an officer of such institution for the following  
79 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
80 emergency medical or psychiatric services unavailable at said institution; to engage in  
81 employment pursuant to a work release program; or for the purposes of an aftercare  
82 program designed to support the recovery of an offender who has completed an alcohol

83 or controlled substance education, treatment or rehabilitation program operated by the  
84 department of correction; and provided, further, that the defendant may serve all or part  
85 of such twelve months sentence to the extent that resources are available in a correctional  
86 facility specifically designated by the department of correction for the incarceration and  
87 rehabilitation of drinking drivers.

88 If the defendant has been previously convicted or assigned to an alcohol or controlled  
89 substance education, treatment or rehabilitation program by a court of the commonwealth  
90 or any other jurisdiction because of a like offense four or more times preceding the date  
91 of conviction or assignment in the instant case, the defendant shall be punished by a fine  
92 of not less than two thousand nor more than fifty thousand dollars and by imprisonment  
93 for not less than two and one-half years or by a fine of not less than two thousand nor  
94 more than fifty thousand dollars and by imprisonment in the state prison for not less than  
95 two and one-half years nor more than twenty years; provided, however, that the sentence  
96 imposed upon such person shall not be reduced to less than twenty-four months, nor  
97 suspended, nor shall any sentence run concurrent with a sentence for any prior or  
98 subsequent conviction for any like offense in this Commonwealth or any other  
99 jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or  
100 receive any deduction from his sentence for good conduct until he shall have served  
101 twenty-four months of such sentence; provided, further, that the commissioner of  
102 correction may, on the recommendation of the warden, superintendent, or other person in  
103 charge of a correctional institution, or the administrator of a county correctional  
104 institution, grant to an offender committed under this subdivision a temporary release in  
105 the custody of an officer of such institution for the following purposes only: to attend the

106 funeral of a relative; to visit a critically ill relative; to obtain emergency medical or  
107 psychiatric services unavailable at said institution; to engage in employment pursuant to a  
108 work release program; or for the purposes of an aftercare program designed to support the  
109 recovery of an offender who has completed an alcohol or controlled substance education,  
110 treatment or rehabilitation program operated by the department of correction; and  
111 provided, further, that the defendant may serve all or part of such twenty-four months  
112 sentence to the extent that resources are available in a correctional facility specifically  
113 designated by the department of correction for the incarceration and rehabilitation of  
114 drinking drivers.

115 **SECTION 3.** Section 24 (1)(c)(1) of chapter 90 of the General Laws, as appearing in the  
116 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
117 commission of the offense for which he has been convicted,” in line 5 with the following words:-

118 “at any time,”.

119 **SECTION 4.** Section 24 (1)(c)(2) of chapter 90 of the General Laws, as appearing in the 2008  
120 Official Edition, is hereby amended by replacing the words “preceding the date of the  
121 commission of the offense for which he has been convicted,” in line 4 with the following words:-

122 “at any time,”.

123 **SECTION 5.** Section 24 (1)(c)(3) of chapter 90 of the General Laws, as appearing in the  
124 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
125 commission of the offense for which he has been convicted,” in line 4 with the following words:-

126 “, at any time,”.

127 **SECTION 6.** Section 24 (1)(c)(3½) of chapter 90 of the General Laws, as appearing in  
128 the 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
129 commission of the offense for which he has been convicted,” in line 4 with the following words:-

130 “, at any time,”.

131 **SECTION 7.** Section 24 (1)(c)(3¾) of chapter 90 of the General Laws, as appearing in  
132 the 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
133 commission of the offense for which he has been convicted,” in lines 4 and 5 with the following  
134 words:-

135 “, at any time,”.

136 **SECTION 8.** Section 24 (1)(c)(4) of chapter 90 of the General Laws, as appearing in the  
137 2008 Official Edition, is hereby amended by replacing the word, “corrobatating” in the second to  
138 last line with the following word:---

139 “corroborating”.

140 **SECTION 9.** Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the  
141 2008 Official Edition, is hereby amended by replacing the word, “restistrar” in line 29 with the  
142 following word:-

143 “registrar”.



**SECTION 9.** Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by deleting the last paragraph containing the following language:

No license or right to operate shall be restored under any circumstances and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph; provided, however, that the defendant may immediately, upon the entry of a not guilty finding or dismissal of all charges under this section, section 24G, section 24L, or section 13½ of chapter 265, and in the absence of any other alcohol related charges pending against said defendant, apply for and be immediately granted a hearing before the court which took final action on the charges for the purpose of requesting the restoration of said license. At said hearing, there shall be a rebuttable presumption that said license be restored, unless the commonwealth shall establish, by a fair preponderance of the evidence, that restoration of said license would likely endanger the public safety. In all such instances, the court shall issue written findings of fact with its decision.